

HOUSE BILL NO. 223

INTRODUCED BY B. MERCER

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A STATUTORY DUTY FOR PUBLIC SAFETY OFFICERS TO ARREST INDIVIDUALS ALREADY IN CUSTODY WHO ARE THE SUBJECT OF IMMIGRATION DETAINDER REQUESTS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Immigration detainer requests -- arrest authority and duty to arrest.**

(1) A public safety officer as defined in 44-4-401(2) who is in possession of an immigration detainer request issued by a federal immigration agency shall arrest a person who is already in custody and the subject of an immigration detainer request;

(2) As used in this section, the following definitions apply:

(a) (i) "Federal immigration agency" means the United States department of justice, the United States department of homeland security, and any division, agency, or other component of either of those departments, including but not limited to United States immigration and customs enforcement, United States customs and border protection, United States citizenship and immigration services, and any successor department, division, agency or other component.

(ii) The term includes officials, officers, representatives, agents, and employees.

(b) "Immigration detainer request" means a written or electronic request issued by a federal immigration agency to detain and maintain control of an alien.

(3) In executing an arrest pursuant to an immigration detainer request, a public safety officer shall:

(a) comply with, honor, and fulfill any request made in the detainer request provided by the federal government; and

(b) inform the person to whom the immigration detainer request applies that the person is being held pursuant to an immigration detainer request issued by a federal immigration agency.

(4) A public safety officer is not required to arrest or detain a person ~~who has provided proof of~~

1 PRESENTED WITH CREDIBLE EVIDENCE that the person is a citizen of the United States or that the person has  
2 lawful immigration status in the United States.

3 (5) TO MEET THE DUTY ESTABLISHED IN THIS SECTION, A PUBLIC SAFETY OFFICER MAY NOT MAINTAIN  
4 CUSTODY OF A PERSON SUBJECT TO A DETAINER FOR LONGER THAN 48 HOURS, EXCLUDING WEEKENDS AND HOLIDAYS,  
5 BEYOND THE TIME THAT THE PERSON WOULD OTHERWISE HAVE BEEN RELEASED FROM CUSTODY.

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7 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an  
8 integral part of Title 44, and the provisions of Title 44 apply to [section 1].

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